

AMENDED IN ASSEMBLY MAY 16, 2005

AMENDED IN ASSEMBLY APRIL 25, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 346

Introduced by Assembly Member Chu

February 10, 2005

An act to amend Sections 905.2, 910.8, 911, *and* 911.2 of the Government Code, relating to state claims, making an appropriation ~~therefor~~ *therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 346, as amended, Chu. State claims.

(1) Existing law requires the California Victim Compensation and Government Claims Board to report to the Legislature when there is no sufficient appropriation available for the payment of a claim against the state allowed by the board. Existing law authorizes the board to assess a surcharge in an amount not to exceed 15% of the total approval claim. The surcharge is to be deposited into the General Fund and may be appropriated in support of the board, as specified.

This bill would appropriate \$1,082,007.08 from various funds to the Executive Officer of the California Victim Compensation and Government Claims Board to pay claims accepted by the board. The bill would require the Controller, upon the request of board, in a form prescribed by the Controller, to transfer surcharges and fees from the Budget Act items of appropriation identified in this bill to Item 8700-001-0001 of Section 2.00 of the Budget Act of 2004, but would provide that the surcharge does not apply to approved claims to reissue expired warrants.

(2) Existing law requires the payment of a \$25 filing fee for filing a claim against the state with the board, but provides that the fee does not apply to persons who have applied for and been granted permission to proceed as litigants in forma pauperis. Existing law requires the filing fee to be reimbursed to the claimant upon board approval of the claim.

This bill would provide that the filing fee does not apply to (a) persons who are receiving benefits pursuant to the Supplemental Security Income and State Supplemental Payments programs, the CalWORKs program, the Food Stamp program, or provisions of existing law relating county aid and relief to indigents, (b) persons whose income is below a specified level, (c) persons sentenced to imprisonment in a state prison or confined in a county jail, or are residents of a state institution, and within 90 days prior to the date the claim is filed has a balance of \$100 or less credited in the inmate's or resident's trust account. The bill would require the fee be paid to the board by the state entity against which the approved claim was filed if the claimant is granted a fee waiver. The bill would provide that the filing fee shall not be reimbursed if the approved claim was for the payment of an expired warrant. The bill would provide that the time for the board to determine the sufficiency, timeliness, or any other aspect of the claim is to begin when the claim is submitted with the filing fee, the fee waiver is granted, or the filing fee is paid to the board upon the board's denial of a fee waiver request if payment is received within 10 calendar days of the mailing of the notice of the denial. *These provisions would become operative on July 1, 2005, or upon the enactment of the Budget Act of 2005, whichever occurs later.*

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 905.2 of the Government Code is
- 2 amended to read:
- 3 905.2. (a) This section shall apply to claims against the state
- 4 filed with the California Victim Compensation and Government
- 5 Claims Board.

1 (b) There shall be presented in accordance with Chapter 1
2 (commencing with Section 900) and Chapter 2 (commencing
3 with Section 910) all claims for money or damages against the
4 state:

5 (1) For which no appropriation has been made or for which no
6 fund is available but the settlement of which has been provided
7 for by statute or constitutional provision.

8 (2) For which the appropriation made or fund designated is
9 exhausted.

10 (3) For money or damages on express contract, or for an injury
11 for which the state is liable.

12 (4) For which settlement is not otherwise provided for by
13 statute or constitutional provision.

14 (c) Claimants shall pay a filing fee of twenty-five dollars (\$25)
15 for filing a claim described in subdivision (b). This fee shall be
16 deposited into the General Fund and may be appropriated in
17 support of the board as reimbursements to Item 1870-001-0001
18 of Section 2.00 of the annual Budget Act.

19 (1) The fee shall not apply to the following persons:

20 (A) Persons who are receiving benefits pursuant to the
21 Supplemental Security Income (SSI) and State Supplemental
22 Payments (SSP) programs (Section 12200 to 12205, inclusive, of
23 the Welfare and Institutions Code), the California Work
24 Opportunity and Responsibility to Kids Act (CalWORKs)
25 program (Chapter 2 (commencing with Section 11200) of Part 3
26 of Division 9 of the Welfare and Institutions Code), the Food
27 Stamp program (7 U.S.C. Sec. 2011 et seq.), or Section 17000 of
28 the Welfare and Institutions Code.

29 (B) Persons whose monthly income is 125 percent or less of
30 the current monthly poverty line annually established by the
31 Secretary of California Health and Human Services pursuant to
32 the federal Omnibus Budget Reconciliation Act of 1981 (Public
33 Law 97-35), as amended.

34 (C) Persons who are sentenced to imprisonment in a state
35 prison or confined in a county jail, or who are residents in a state
36 institution and, within 90 days prior to the date the claim is filed,
37 have a balance of one hundred dollars (\$100) or less credited to
38 the inmate's or resident's trust account. A certified copy of the
39 statement of the account shall be submitted.

1 (2) Any claimant who requests a fee waiver shall attach to the
2 application a signed affidavit requesting the waiver and
3 verification of benefits or income and any other required
4 financial information in support of the request for the waiver.

5 (3) Notwithstanding any other provision of law, an applicant
6 shall not be entitled to a hearing regarding the denial of a request
7 for a fee waiver.

8 (d) The time for the board to determine the sufficiency,
9 timeliness, or any other aspect of the claim shall begin when any
10 of the following occur:

11 (1) The claim is submitted with the filing fee.

12 (2) The fee waiver is granted.

13 (3) The filing fee is paid to the board upon the board's denial
14 of the fee waiver request, so long as payment is received within
15 10 calendar days of the mailing of the notice of the denial.

16 (e) Upon approval of the claim by the board, the fee shall be
17 reimbursed to the claimant, except that no fee shall be
18 reimbursed if the approved claim was for the payment of an
19 expired warrant. Reimbursement of the filing fee shall be paid by
20 the state entity against which the approved claim was filed. If the
21 claimant was granted a fee waiver pursuant to this section, the
22 amount of the fee shall be paid by the state entity to the board.
23 The reimbursement to the claimant or the payment to the board
24 shall be made at the time the claim is paid by the state entity, or
25 shall be added to the amount appropriated for the claim in an
26 equity claims bill.

27 (f) The board may assess a surcharge to the state entity against
28 which the approved claim was filed in an amount not to exceed
29 15 percent of the total approved claim. The board shall not
30 include the refunded filing fee in the surcharge calculation. This
31 surcharge shall be deposited into the General Fund and may be
32 appropriated in support of the board as reimbursements to Item
33 1870-001-0001 of Section 2.00 of the annual Budget Act.

34 (1) The surcharge shall not apply to approved claims to reissue
35 expired warrants.

36 (2) Upon the request of the board in a form prescribed by the
37 Controller, the Controller shall transfer the surcharges and fees
38 from the state entity's appropriation to the appropriation for the
39 support of the board. However, the board shall not request an

1 amount that shall be submitted for legislative approval pursuant
2 to Section 13928.

3 (g) The filing fee required by subdivision (c) shall apply to all
4 claims filed after June 30, 2004, or the effective date of this
5 statute. The surcharge authorized by subdivision (f) may be
6 calculated and included in claims paid after June 30, 2004, or the
7 effective date of the statute adding this subdivision.

8 SEC. 2. Section 910.8 of the Government Code is amended to
9 read:

10 910.8. If, in the opinion of the board or the person designated
11 by it, a claim as presented fails to comply substantially with the
12 requirements of Sections 910 and 910.2, or with the requirements
13 of a form provided under Section 910.4 if a claim is presented
14 pursuant thereto, the board or the person may, at any time within
15 20 days after the claim is presented, give written notice of its
16 insufficiency, stating with particularity the defects or omissions
17 therein. The notice shall be given in the manner prescribed by
18 Section 915.4. The board may not take action on the claim for a
19 period of 15 days after the notice is given.

20 SEC. 3. Section 911 of the Government Code is amended to
21 read:

22 911. Any defense as to the sufficiency of the claim based
23 upon a defect or omission in the claim as presented is waived by
24 failure to give notice of insufficiency with respect to the defect or
25 omission as provided in Section 910.8, except that no notice need
26 be given and no waiver shall result when the claim as presented
27 fails to state either an address to which the person presenting the
28 claim desires notices to be sent or an address of the claimant.

29 SEC. 4. Section 911.2 of the Government Code is amended to
30 read:

31 911.2. (a) A claim relating to a cause of action for death or
32 for injury to person or to personal property or growing crops
33 shall be presented as provided in Article 2 (commencing with
34 Section 915) not later than six months after the accrual of the
35 cause of action. A claim relating to any other cause of action
36 shall be presented as provided in Article 2 (commencing with
37 Section 915) not later than one year after the accrual of the cause
38 of action.

39 (b) For purposes of determining whether a claim was
40 commenced within the period provided by law, the date the claim

was presented to the California Victim Compensation and Government Claims Board is one of the following:

(1) The date the claim is submitted with a twenty-five dollar (\$25) filing fee.

(2) If a fee waiver is granted, the date the claim was submitted with the affidavit requesting the fee waiver.

(3) If a fee waiver is denied, the date the claim was submitted with the affidavit requesting the fee waiver, provided the filing fee is paid to the board within 10 calendar days of the mailing of the notice of the denial of the fee waiver.

SEC. 5. (a) The sum of one million eighty-two thousand seven dollars and eight cents (\$1,082,007.08) is hereby appropriated from the various funds, as specified in subdivision (b), to the Executive Officer of the California Victim Compensation and Government Claims Board for the payment of claims accepted by the board in accordance with the schedule set forth in subdivision (b).

(b) Pursuant to subdivision (a), claims accepted by the California Victim Compensation and Government Claims Board shall be paid in accordance with the following schedule:

Total for Fund: California Beverage	
Container Recycling Fund (0133).....	\$10,000.00
Total for Fund: General Fund (0001).....	\$298,932.56
Total for Fund: Item 0840-001-0890,	
Budget Act of 2005.....	\$56.73
Total for Fund: Item 1110-001-0069,	
Budget Act of 2005, Program 22.....	\$828.00
Total for Fund: Item 1111-001-0380,	
Budget Act of 2005, Program 36.20.....	\$2,224.00
Total for Fund: Item 1111-001-0770,	
Budget Act of 2005, Program 75.....	\$61.08
Total for Fund: Item 1111-002-0421,	
Budget Act of 2005, Program 31.10.016.....	\$3,082.25
Total for Fund: Item 1760-001-0666(1),	
Budget Act of 2005.....	\$381.37
Total for Fund: Item 1900-001-0822,	
Budget Act of 2005.....	\$382.96
Total for Fund: Item 1900-001-0950,	
Budget Act of 2005.....	\$388.70

1	Total for Fund: Item 2660-001-0042(2),	
2	Budget Act of 2005, Program 20.10.....	\$9,406.27
3	Total for Fund: Item 2720-001-0044,	
4	Budget Act of 2005, Program 10.....	\$308.00
5	Total for Fund: Item 3600-001-0001,	
6	Budget Act of 2005, Program 25.....	\$152.00
7	Total for Fund: Item 3600-001-0200(25),	
8	Budget Act of 2005.....	\$7,101.00
9	Total for Fund: Item 3790-001-0001(1),	
10	Budget Act of 2005.....	\$828.00
11	Total for Fund: Item 3860-001-0001,	
12	Budget Act of 2005, Program 20.....	\$1,531.35
13	Total for Fund: Item 4200-103-0001,	
14	Budget Act of 2005, Program 15.....	\$2,118.52
15	Total for Fund: Item 4260-001-0001(10),	
16	Budget Act of 2004.....	\$37,422.00
17	Total for Fund: Item 4260-001-0001,	
18	Budget Act of 2003, Program 20.....	\$133,149.57
19	Total for Fund: Item 4260-001-0890,	
20	Budget Act of 2003, Program 20.....	\$399,448.71
21	Total for Fund: Item 4260-001-0890,	
22	Budget Act of 2005, Program 20.....	\$1,242.50
23	Total for Fund: Item 4260-111-0890,	
24	Budget Act of 2005, Program 20.....	\$24,186.00
25	Total for Fund: Item 4300-001-0001,	
26	Budget Act of 2005, Program 10.....	\$1,142.01
27	Total for Fund: Item 4300-101-0001(1),	
28	Budget Act of 2005, Program 10.....	\$2,580.00
29	Total for Fund: Item 4440-011-0001(2),	
30	Budget Act of 2005, Program 20.20.....	\$202.92
31	Total for Fund: Item 5160-001-0001(1),	
32	Budget Act of 2005, Program 10.....	\$10,262.90
33	Total for Fund: Item 5180-001-0001,	
34	Budget Act of 2005, Program 25.....	\$219.78
35	Total for Fund: Item 5180-001-0890,	
36	Budget Act of 2005, Program 35.....	\$1,396.56
37	Total for Fund: Item 5180-111-0001(2),	
38	Budget Act of 2005, Program 25.15.....	\$88.55
39	Total for Fund: Item 5180-111-0001,	
40	Budget Act of 2005, Program 25.....	\$1,037.98

1	Total for Fund: Item 5180-151-0001(1),	
2	Budget Act of 2005, Program 25.30.....	\$7,291.08
3	Total for Fund: Item 5240-001-0001(1),	
4	Budget Act of 2005, Program 21.....	\$53,575.49
5	Total for Fund: Item 5240-001-0001(2),	
6	Budget Act of 2005, Program 22.....	\$37,173.94
7	Total for Fund: Item 6610-001-0001(1),	
8	Budget Act of 2005.....	\$10,222.11
9	Total for Fund: Item 7100-001-0185,	
10	Budget Act of 2005, Program 21.....	\$5,828.01
11	Total for Fund: Item 7100-001-0588,	
12	Budget Act of 2005, Program 21.....	\$2,842.00
13	Total for Fund: Item 7100-001-0870,	
14	Budget Act of 2005, Program 10.....	\$1,049.84
15	Total for Fund: Item 7100-001-0870,	
16	Budget Act of 2005, Program 21.....	\$4,732.00
17	Total for Fund: Item 7100-101-0871,	
18	Budget Act of 2005, Program 21.....	\$3,445.00
19	Total for Fund: Item 8380-001-0001,	
20	Budget Act of 2005, Program 40.....	\$2,475.82
21	Total for Fund: Unclaimed Property	
22	Fund (0970).....	\$3,209.52

23

24 SEC. 6. Upon the request of the California Victim

25 Compensation and Government Claims Board in a form

26 prescribed by the Controller, the Controller shall transfer

27 surcharges and fees from the Budget Act items of appropriation

28 identified in subdivision (b) of Section 5 to Item 8700-001-0001

29 of Section 2.00 of the Budget Act of 2004. For each Budget Act

30 item of appropriation, this amount shall not exceed the

31 cumulative total of the per claim filing fees authorized by

32 subdivision (b) of Section 905.2 of the Government Code and the

33 surcharge authorized by subdivision (f) of Section 905.2 of the

34 Government Code. For those items in subdivision (b) that do not

35 reflect a Budget Act appropriation, the Controller shall transfer

36 an amount not to exceed the cumulative total of the per claim

37 filing fees authorized by subdivision (b) of Section 905.2 of the

38 Government Code and the surcharge authorized by subdivision

39 (f) of Section 905.2 of the Government Code. This amount shall

40 be transferred for support of the board as reimbursements to Item

1 8700-001-0001 of Section 2.00 of the Budget Act of 2004. The
2 board shall provide a report of the amounts recovered pursuant to
3 this authority to the Department of Finance within 90 days of the
4 enactment of this act.

5 *SEC. 7. The amendments to Section 905.2 of the Government*
6 *Code that are made by Section 1 of this act, shall become*
7 *operative on July 1, 2005, or upon the enactment of the Budget*
8 *Act of 2005, whichever is later.*

9 *SEC. 8. This act is an urgency statute necessary for the*
10 *immediate preservation of the public peace, health, or safety*
11 *within the meaning of Article IV of the Constitution and shall go*
12 *into immediate effect. The facts constituting the necessity are:*

13 *In order to pay claims against the state and end hardship to*
14 *claimants as quickly as possible, it is necessary for this act to*
15 *take effect immediately.*